

STATE OF VERMONT
PUBLIC SERVICE BOARD

VERMONT PUBLIC
SERVICE BOARD
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Joint Petition of Northern New England Telephone)
Operations LLC, Telephone Operating Company of)
Vermont LLC, d/b/a FairPoint Communications,)
Enhanced Communications of Northern New)
England, Inc., and FairPoint Vermont, Inc.)
(collectively, "FairPoint"), for (1) approval of an)
indirect acquisition of a controlling interest;) Docket No. 7599
(2) approval of a Settlement between the)
Department of Public Service and FairPoint;)
(3) approval of the modification of certain)
Certificates of Public Good issued in Docket 7270;)
and (4) approval of certain other transactions)

PROTECTIVE AGREEMENT

THIS AGREEMENT is dated as of March 17, 2010 and is by and among Northern New England Telephone Operations LLC, Telephone Operating Company of Vermont LLC d/b/a FairPoint Communications, Enhanced Communications of Northern New England Inc., and FairPoint Vermont, Inc. (collectively, "FairPoint"), and the State of Vermont Department of Public Service (the "Department" or "DPS") (FairPoint and the DPS will be sometimes referenced herein, where the context requires, as a "Party" and collectively as the "Parties");

WHEREAS, the Parties desire to cooperate in the provision of information relevant to the issues that may be litigated in the above-captioned docket before the Vermont Public Service Board ("Board") regarding FairPoint's petition for various approvals under 30 V.S.A. §§ 107, 108, 231 and 232;

WHEREAS, FairPoint has information pertinent to the above-captioned docket that it has been, or may be, asked to provide to the Department, which FairPoint believes could result in

financial and/or competitive harm to FairPoint if it is required to disclose such information to the public, and which information FairPoint believes to be proprietary, privileged, confidential or in the nature of a trade secret (which information is referenced herein as "Allegedly Confidential Information" and is specifically described on Schedule I hereto, which Schedule may be amended only in accordance with the terms of this Agreement);

WHEREAS, FairPoint desires to disclose Allegedly Confidential Information only to Parties that have executed Schedule IIa or Schedule IIb, as appropriate, to this Agreement or, in certain situations, only to the Board or to the Department for review in accordance with this Agreement; and

WHEREAS, the Parties have agreed to the procedures established in this Agreement for the disclosure of Allegedly Confidential Information to the Department and/or the Board and to provisions for holding such Allegedly Confidential Information in confidence;

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. If FairPoint seeks to place information under this protective agreement, it shall file an averment, as described in paragraph 2 of the protective order, which is attached as Schedule IV to this Agreement, with the Department. If the Department agrees to treat specific information to be provided by FairPoint in the above-captioned docket as Allegedly Confidential Information, FairPoint will submit to the Board and all Parties a copy of Schedule I, as from time to time revised in accordance with the terms of this Agreement, identifying each such item of Allegedly Confidential Information and signed or initialed by the Department to evidence its

agreement to treat such item as Allegedly Confidential Information. This Agreement applies only to that information that FairPoint and the Department agree will be treated as Allegedly Confidential information listed on Schedule I. Schedule I may be amended only by agreement of FairPoint and the Department. Upon agreement of the Department to Schedule I or an amendment thereto, FairPoint shall file the same averment, previously filed with the Department, with the Board as required by the protective order which is attached as Schedule IV to this agreement. If the Department does not agree to treat specific information to be provided by FairPoint as Allegedly Confidential Information, FairPoint may request a hearing before the Board by seeking a protective order as provided under V.R.C.P. 26(c). FairPoint shall file its request in writing with the Board and Parties within seven (7) business days of its receipt of a denial by the Department that such information can be treated as Allegedly Confidential Information under this Agreement. During the seven-day period, the information shall be treated as Allegedly Confidential Information under this Agreement. If FairPoint files a timely request with the Board and the Parties, the information shall be treated in accord with Paragraph 14 of this Agreement.

2. The Department may obtain Allegedly Confidential Information by submitting to FairPoint's counsel Schedule IIa attached hereto, which incorporates by reference this Protective Agreement. If such a request is made for Allegedly Confidential Information, FairPoint, through its counsel, will provide one copy of the Allegedly Confidential Information to the Department or otherwise make such Allegedly Confidential Information available. The Department will afford access to the Allegedly Confidential Information only to its employees and consultants who have executed Schedule IIa and returned the executed Schedule IIa to FairPoint's counsel.

The Department shall make only one copy of any Allegedly Confidential Information for each individual who has executed Schedule IIa, except as otherwise provided in Paragraph 4 hereof.

3. A Party other than the Department may obtain Allegedly Confidential Information by submitting to FairPoint's counsel the Protective Agreement attached hereto as Schedule IIb and its request by Schedule III hereto. If such a request is made for Allegedly Confidential Information, FairPoint, through its respective counsel, will provide one copy of the Allegedly Confidential Information to such Party, or otherwise will make such Allegedly Confidential Information available to such Party, except those documents or portions thereof excised based on legal objection and duly noted by counsel for FairPoint, including, but not limited to, objections based on relevance, privilege, or discovery that is burdensome, cumulative or requires disclosure of confidential commercial information or trade secrets. Each such Party will afford access to the Allegedly Confidential Information only to such employees, consultants and other representatives who have executed Schedule IIb and are named in Schedule III to this Agreement and returned the executed Schedule IIb to FairPoint's counsel. A Party shall make only one copy of any Allegedly Confidential Information for each individual who has executed Schedule IIb, except as otherwise provided in Paragraph 4 hereof.

4. Documents containing or incorporating Allegedly Confidential Information to be offered in evidence under seal may be copied as necessary for that purpose. The Parties' counsel, personnel and consultants, who have agreed in writing to be bound by this Agreement, may take notes regarding such Allegedly Confidential Information, but only as necessary for preparation for proceedings in the above-captioned docket. Such notes shall be treated the same

as the Allegedly Confidential Information from which the notes were taken and shall not be used for any purpose other than as specified herein.

5. No Party that has executed this Agreement, and no person representing such Party, that is afforded access to the Allegedly Confidential Information shall use the Allegedly Confidential Information for any purpose other than the purpose of preparation for and conduct of this docket, including appeals of any order or ruling therein, and then solely as contemplated herein. Each such Party, and each such representative person, shall keep the Allegedly Confidential Information secure and shall not disclose it or afford access to it to any person not authorized by this Agreement to receive same. Nothing in this Agreement precludes the Department from using Allegedly Confidential Information obtained hereunder either to seek a Board investigation (provided that the Department continues to treat such Allegedly Confidential Information as confidential pursuant to the protective terms of this Agreement) or request that the Allegedly Confidential Information or similar information be provided by FairPoint in any other context.

6. Should the Department or any other Party receive any subpoena, or any request pursuant to any Vermont law regarding access to public records, for any document or information received from FairPoint pursuant to this Agreement, the Department or such other Party promptly shall notify the respective counsel or other representative of FairPoint of the pendency of such subpoena or other request, and shall abide by the terms and conditions of this Agreement unless and until ordered otherwise by a court or administrative body of competent jurisdiction. Nothing in this Agreement shall limit or waive in any manner any rights that

FairPoint may have under applicable law to seek protection against disclosure pursuant to a subpoena, a request for access to public records, or any other request for information.

7. If a Party wishes to prefile any testimony or exhibits that include or otherwise disclose Allegedly Confidential Information, that Party must give five-business days' advance notice to FairPoint's counsel. Any Party may move the Board for an order that the testimony or exhibits be filed under seal or under other conditions to prevent unnecessary disclosure.

a. If such motion is filed within the five-business day advance notice period, the proponent of the testimony and exhibits shall place them in a sealed record by filing such documents in sealed envelopes or other appropriate sealed containers on which shall be endorsed the caption and docket number of the proceeding, the nature of the contents (exhibit, report, etc.) and a statement that it shall not be opened or released from custody of the Clerk of the Board, except by Order of the Board or Hearing Officer. Notwithstanding such a statement, the members of the Board, and any employee or consultant specifically authorized by the Board to assist the Board in this proceeding and any Hearing Officer appointed to this docket, may have access to such sealed Allegedly Confidential Information, but shall not disclose the contents of any such sealed information to any person who has not agreed to be bound by the Protective Agreement. The Board or Hearing Officer will then determine whether the proffered evidence should continue to be treated as confidential information and, if so, what protection, if any, may be afforded to such information.

b. If no such motion is filed by the end of the five-business day advance notice period, the testimony and exhibits may be filed as a document available for public access.

8. At any hearing or conference in this proceeding, no witness may be questioned with respect to any Allegedly Confidential Information, unless examining counsel has provided advance notice to counsel for any party or other person that designated the information as allegedly confidential. To the extent possible, such notice shall be given prior to the commencement of the hearing or conference. Any party may move the Board for an order that the testimony be received in camera or under other conditions to prevent unnecessary disclosure. If such motion is made, the Board or Hearing Officer will then determine whether the testimony should be received in camera or subject to other protection.

9. FairPoint may make written requests to the Department or other Party for the return of Allegedly Confidential Information. Such requests shall be made within sixty (60) days after final decision, order or judgment in this docket, unless appeal from such decision, order or judgment is taken, in which case the request shall be made within sixty (60) days after the conclusion of the appeal and any remand or further appeal therefrom. Within sixty (60) days of such a request by FairPoint, the Department or other Party shall: (a) return the Allegedly Confidential Information supplied by FairPoint to its counsel, except for those portions of the Allegedly Confidential Information which have been made public; (b) cause its employees and consultants to destroy any notes taken concerning, or any documents or information in any form incorporating, Allegedly Confidential Information which has not been made public, and (c) advise FairPoint in writing that the requirements of this paragraph have been met. Notwithstanding the foregoing, nothing in this paragraph shall require the Department to destroy notes, documents, or information in violation of statute.

10. No signatory hereto shall assign to any other person its rights or obligations hereunder, and any such assignment by any signatory of the rights and obligations hereunder shall be null and void.

11. An individual's access to Allegedly Confidential Information ceases upon termination of employment with a Party, and any individual who terminates employment with a Party who has executed this Agreement or Schedule IIa or Schedule IIb shall continue to be bound by its terms.

12. This Agreement is made under and shall be governed by the laws of the State of Vermont.

13. This Agreement shall in no way be deemed to constitute any waiver of the rights of any Party to the above-captioned docket. The foregoing provisions of this Agreement notwithstanding, any Party to the above-captioned docket may at any time, to the full extent allowable by applicable law, contest any assertion or appeal any finding that specific information is or should be Allegedly Confidential Information or that it should or should not be subject to the protective requirements of this Agreement. The Parties hereto retain the right to question, challenge and object to the admissibility of any and all Allegedly Confidential Information furnished by FairPoint under this Agreement on any available grounds, including, but not limited to, competency, relevancy and materiality. Any Party may at any time seek by appropriate pleading to have Allegedly Confidential Information submitted under this Agreement, or under protective order issued by the Board or Hearing Officer pursuant to this Agreement, removed from the coverage of this Agreement or the order.

14. In the event that the Board or a Hearing Officer in the above-captioned docket should rule that any information is not appropriate for inclusion in a sealed record, or should be disclosed to a Party where FairPoint objects to such disclosure under Paragraph 3 of this Agreement, the Parties agree that, at the request or upon the motion of FairPoint seeking protection of such information from disclosure, such information will not be disclosed until the later of five business days after the Board or Hearing Officer so orders, or, if FairPoint files an interlocutory appeal or requests a stay of such order, the date upon which such appeal or request is decided; provided, however, that such period of time may be extended in accordance with any stay ordered by the Board or a reviewing court.

15. The Parties promptly will submit to the Board a proposed Protective Order in the form attached hereto as Schedule IV that, if adopted, will set forth the procedure for treating Allegedly Confidential Information in a sealed record.

16. Each Party warrants that it will act in good faith and will not do anything to deprive any other Party of the benefit of this Agreement.

17. This Agreement may be amended or modified only by a written document signed by the Parties hereto.

18. The Parties have entered into this Agreement to expedite the production of information, minimize the time spent in discovery disputes, and facilitate the progress of this investigation to the fullest extent possible. Entry into this Agreement shall not be construed as an admission by any Party regarding the scope of the Party's statutory right to information, nor shall it be construed as a waiver of the right to raise any and all appropriate confidentiality issues in future dockets.

19. Information that is designated by FairPoint as Allegedly Confidential Information pursuant to this Agreement that a Party also obtains independent of this Agreement is not subject to this Agreement.

20. FairPoint shall not seek the disqualification of any Department employee, consultant, or other representative as to any authorized Department activity on the grounds that such person reviewed information provided hereunder.

NORTHERN NEW ENGLAND TELEPHONE OPERATIONS LLC,
TELEPHONE OPERATING COMPANY OF VERMONT LLC D/B/A
FAIRPOINT COMMUNICATIONS, ENHANCED
COMMUNICATIONS OF NORTHERN NEW ENGLAND INC., AND
FAIRPOINT VERMONT, INC.

By: Downs Rachlin Martin PLLC, Their Attorneys

By: 

Nancy S. Malmquist, Esq.

VERMONT DEPARTMENT OF PUBLIC SERVICE

By: 

Sarah D. Hofmann, Esq.

James H. Porter, III., Esq.

STATE OF VERMONT
PUBLIC SERVICE BOARD

SCHEDULE I

Joint Petition of Northern New England Telephone)
Operations LLC, Telephone Operating Company of)
Vermont LLC, d/b/a FairPoint Communications,)
Enhanced Communications of Northern New)
England, Inc., and FairPoint Vermont, Inc.)
(collectively, "FairPoint"), for (1) approval of an)
indirect acquisition of a controlling interest;)
(2) approval of a Settlement between the)
Department of Public Service and FairPoint;)
(3) approval of the modification of certain)
Certificates of Public Good issued in Docket 7270;)
and (4) approval of certain other transactions)

Docket No. 7599

DOCUMENTS TO BE TREATED AS ALLEGEDLY
CONFIDENTIAL INFORMATION

- 1.
- 2.
- 3.
- 4.

STATE OF VERMONT
PUBLIC SERVICE BOARD

SCHEDULE IIa

Joint Petition of Northern New England Telephone.)
Operations LLC, Telephone Operating Company of)
Vermont LLC, d/b/a FairPoint Communications,)
Enhanced Communications of Northern New)
England, Inc., and FairPoint Vermont, Inc.)
(collectively, "FairPoint"), for (1) approval of an)
indirect acquisition of a controlling interest;) Docket No. 7599
(2) approval of a Settlement between the)
Department of Public Service and FairPoint;)
(3) approval of the modification of certain)
Certificates of Public Good issued in Docket 7270;)
and (4) approval of certain other transactions)

I, _____ (name), serve as
_____ (title or advisory capacity) to the Department
of Public Service ("DPS") in the above-captioned proceeding before the State of Vermont Public
Service Board. In connection with the work done for DPS, I request to be given access to certain
Allegedly Confidential Information of Northern New England Telephone Operations LLC,
Telephone Operating Company of Vermont LLC d/b/a FairPoint Communications, Enhanced
Communications of Northern New England Inc., and FairPoint Vermont, Inc. (collectively,
"FairPoint") under a Protective Agreement, dated as of March 17, 2010, by and among FairPoint
and the DPS. A copy of that Protective Agreement has been delivered to me. I have read this
Agreement and agree to comply with and be bound by its terms.

Dated: _____ Signature: _____

STATE OF VERMONT
PUBLIC SERVICE BOARD

SCHEDULE IIb

Joint Petition of Northern New England Telephone)
Operations LLC, Telephone Operating Company of)
Vermont LLC, d/b/a FairPoint Communications,)
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England, Inc., and FairPoint Vermont, Inc.)
(collectively, "FairPoint"), for (1) approval of an)
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Department of Public Service and FairPoint;)
(3) approval of the modification of certain)
Certificates of Public Good issued in Docket 7270;)
and (4) approval of certain other transactions)

Docket No. 7599

I, _____ (name), serve as

_____ (title or advisory capacity) to

_____ (Party) in the above-

captioned proceeding before the State of Vermont Public Service Board. In connection with the work done for _____ (Party), I request to be given access to certain Allegedly Confidential Information of Northern New England Telephone Operations LLC, Telephone Operating Company of Vermont LLC d/b/a FairPoint Communications, Enhanced Communications of Northern New England Inc., and FairPoint Vermont, Inc. (collectively, "FairPoint") under a Protective Agreement, dated as of March 17, 2010, by and among FairPoint and the Vermont Department of Public Service. A copy of that Protective Agreement has been delivered to me. I have read this Agreement and agree to comply with and be bound by its terms. I agree that this Schedule IIb does not authorize my access to the Allegedly Confidential Information until it is executed, delivered to and approved by the counsel for FairPoint.

Dated: _____ Signature: _____
Name: _____
Title: _____

STATE OF VERMONT
PUBLIC SERVICE BOARD

SCHEDULE III

Joint Petition of Northern New England Telephone)
Operations LLC, Telephone Operating Company of)
Vermont LLC, d/b/a FairPoint Communications,)
Enhanced Communications of Northern New)
England, Inc., and FairPoint Vermont, Inc.)
(collectively, "FairPoint"), for (1) approval of an)
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(2) approval of a Settlement between the)
Department of Public Service and FairPoint;)
(3) approval of the modification of certain)
Certificates of Public Good issued in Docket 7270;)
and (4) approval of certain other transactions)

Docket No. 7599

The undersigned Party hereby requests that the Allegedly Confidential Information described below be furnished pursuant to the Protective Agreement, dated as of March 17, 2010, by and among Northern New England Telephone Operations LLC, Telephone Operating Company of Vermont LLC d/b/a FairPoint Communications, Enhanced Communications of Northern New England Inc., and FairPoint Vermont, Inc. (collectively, "FairPoint") and the Vermont Department of Public Service, to the following person on behalf of _____ (Party):

Name:

Address:

Title:

Description of Employment Responsibilities:
(or Advisory Responsibilities to Party)

Description of Allegedly Confidential Information to be
Provided: (attach description as Schedule A if more room is necessary)

Such person has read the Protective Agreement, executed the form designated as Schedule IIa or IIb to that Agreement, and agrees that Schedule IIa or IIb does not authorize his/her access to the Allegedly Confidential Information until it is executed, delivered to and approved by the Companies.

PARTY: _____

Dated: _____

Signature: _____

Name: _____

Title: _____